

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

TOMMY WALTON, §
§
Plaintiff, §
§
V. § CIVIL ACTION NO. H-13-1164
§
3M COMPANY, ARIZANT HEALTHCARE, §
INC., and ROBERT PRESTERA, §
§
Defendants. §

ORDER

Before the Magistrate Judge upon referral from the District Judge is Defendant 3M Company's Motion to Compel Plaintiff's Responses to Discovery (Document No. 103). In that motion, Defendant seeks an Order compelling Plaintiff to provide a response to Defendant's "Supplemental Interrogatory No. 1", and produce documents responsive to Request for Production No. 1, both of which seek information about Plaintiff's contacts and communications with Dr. Scott Augustine. In response to the motion, Plaintiff and his counsel represent that they have had no contact or communications with Dr. Augustine relative to this case, other than a telephone call between Plaintiff's counsel and Dr. Augustine about meetings Dr. Augustine had with Mr. Maharaj in 2008 and 2009. As for any other communications and contacts, Plaintiff's counsel has advised that his law firm, Kennedy Hodges, LLC, represented Dr. Augustine's company, Augustine Biomedical + Design, LLC, in 2009, and maintains that any communications and contacts related to that representation are privileged.

Having considered Defendant's Motion to Compel, Plaintiff's response in opposition, the disclosure of the contacts Plaintiff and his counsel have had with Dr. Augustine related to this case,

and the fact that Dr. Augustine is not a consulting or testifying expert for Plaintiff in this case, it is

ORDERED that Defendant's Motion to Compel (Document No. 103) is DENIED.

Defendant may, of course, seek discovery directly from Dr. Augustine, who has been identified by Plaintiff as a fact witness, through a deposition and/or a subpoena.

Signed at Houston, Texas, this 19th day of May, 2015.



FRANCES H. STACY
UNITED STATES MAGISTRATE JUDGE